

# Mississippi Public Service Commission

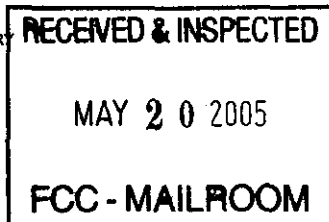


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May 18, 2005



Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

**Re: Petition of the Mississippi Public Service Commission for  
Concurrence to Redefine the Service Area of Franklin Telephone  
Company, Inc.**

Dear Ms. Dortch:

Please find enclosed for filing an original and four copies of the matter captioned above. When the petition has been filed, kindly return to me a stamped filed copy of it for my records.

I have sent a courtesy copy of this petition to Mr. Mark Seifert of the Wireline Competition Bureau.

Sincerely,

A handwritten signature in black ink, appearing to read "George M. Fleming".

George M. Fleming

Enclosure

Cc: Mark Seifert, Esquire  
Bruce McKinley, Esquire  
Stanley Smith, Esquire  
James Halford, Esquire  
Thomas Alexander, Esquire

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of Federal-State Joint Board  
on Universal Service

Petition for Change in the Definition of      CC Docket No. 96-45  
Franklin Telephone Company, Inc.'s  
Service Area

**PETITION OF THE MISSISSIPPI PUBLIC SERVICE COMMISSION  
FOR CONCURRENCE TO REDEFINE THE SERVICE AREA OF  
FRANKLIN TELEPHONE COMPANY, INC.**

**INTRODUCTION**

Pursuant to Section 214(e)(5) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 214(e)(5), and 47 C.F.R. § 54.207, the Mississippi Public Service Commission ("MPSC") petitions the Federal Communications Commission ("Commission") to seek the Commission's concurrence with the redefinition of the service area of Franklin Telephone Company, Inc. ("Franklin") in Mississippi for purposes of defining the geographic service area of an additional Eligible Telecommunications Carrier ("ETC") designated by the MPSC. Franklin is an incumbent rural telecommunications carrier designated as an ETC under the Act. The MPSC recently designated Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. ("Centennial") eligible telecommunications carriers in the state of Mississippi in Rural Service Areas 8 and 9 ("RSAs 8 and 9") for which Centennial is licensed by the Commission to offer commercial mobile wireless services.<sup>1</sup>

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<sup>1</sup> The MPSC granted Centennial ETC status in the rural portions of its service area, which includes the areas served by Franklin, on August 10, 2004. *In Re Application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1934*, 2003-

Franklin's Study Area is not co-extensive with Centennial's CMRS license area. While Franklin provides wireline telecommunications services in portions of both RSAs 8 and 9, Franklin also provides service in southeast and northeast Mississippi that are outside the scope of Centennial's FCC licensed area. Because Centennial is not licensed to serve the entirety of Franklin's Study Area, the MPSC seeks to redefine the Study Area of Franklin solely for purposes of the geographic area within which Centennial will be deemed to be designated as an additional ETC and therefore eligible to receive high-cost support in portions of RSAs 8 and 9 that are also served by Franklin. Redefining Franklin's service area in this manner and solely for interstate Universal Service Fund ("USF") purposes is consistent with federal and state goals of encouraging competition in the provision of telecommunications services in both urban and rural areas of Mississippi. This petition seeks Commission concurrence with the proposed service area definitions for Franklin, as further described below.

**1. The Act Specifically Anticipates Redefinition of Rural ILECs' Service Areas.**

Pursuant to Section 214(e) of the Act, state commissions generally have authority to designate carriers that satisfy the requirements of the federal universal service rules as ETCs. 47 U.S.C. §214(e). The service area of a competitive ETC ("CETC") operating in the area of a rural incumbent local exchange company ("rural ILEC") is by default defined as the rural ILEC's Study Area. The Act explicitly contemplates, however, that the service area of the CETC may be redefined for USF purposes and sets forth a process whereby an entity seeking additional ETC status within such geographic area may be

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UA-0234, Order (Miss. PSC Aug. 10, 2004) (hereinafter "August 10th Order") (attached hereto as Exhibit A). On November 5, 2004, Centennial accepted the Commission-imposed conditions placed on Centennial's ETC designation.

designated for a geographic service area that differs from that of the rural ILEC.

Specifically, and with respect to such CETC, Section 214(e)(5) of the Act provides:

In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

47 U.S.C. §214(e)(5).

The Commission and the Federal-State Joint Board on Universal Service ("Joint Board") have recognized that a strict rule requiring an entity seeking additional ETC status to serve the entire rural ILEC's study area could preclude certain carriers that otherwise fully satisfy ETC requirements from bringing the benefits of competition to consumers throughout that carrier's service territory.<sup>2</sup>

**2. Centennial's RSAs 8 and 9 are Not Contiguous with Franklin's Service Area.**

Centennial provides wireless telecommunication services in designated areas of the state of Mississippi pursuant to license issued by the Commission. These areas are known as RSAs 8 and 9. RSA 8 encompasses the following Mississippi counties: Claiborne, Jefferson, Adams, Franklin, Wilkinson, Amite, Pike and Lincoln. RSA 9 encompasses the following counties: Copiah, Simpson, Lawrence Walthall, Marion and Jefferson Davis. In addition to Franklin, Georgetown Telephone Company, Inc. ("Georgetown") and Alltel of Mississippi, Inc. ("Alltel") also serve areas within RSAs 8 and 9.

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<sup>2</sup> *In Re Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support*, Memorandum Opinion and Order, 15 FCC Rcd 9921 (FCC rel. Sept. 9, 1999) (hereinafter "Washington UTC Redesignation Order").

The Study Area of Georgetown is entirely encompassed within the boundaries of RSA 9. As such, no action within respect to Centennial's ETC geographic area *vis-à-vis* Georgetown is necessary. Alltel serves both within and outside RSA 9. Alltel's Study Area, however, has previously been disaggregated and thus, redefinition is not required for the Alltel area.<sup>3</sup> Franklin's service area, however, serves wire centers located both within and outside of Centennial's licensed CMRS area, thereby necessitating this petition.

**3. Redefinition of Franklin's Service Area is Consistent with Federal Universal Service Policy and the Commission's Rules.**

Congress, in passing the 1996 amendments to the Act, declared its intent to promote competition and to encourage the deployment of new telecommunications technologies. As part of its efforts to further these goals, it envisioned that, under certain circumstances, multiple ETCs in the same market, and that when the public interest is served, an entity seeking additional ETC status may not be required to serve the entire rural ILEC Study Area. 47 U.S.C. §§214(e)(2); (e)(5).

Section 54.207(c)(1) of the Commission's rules sets forth procedures for the Commission's consideration in the context of an additional ETC designation of state commission-proposed redefinitions of a rural telephone company's service area that differ from the company's Study Area. The state commission must submit a petition to the FCC containing:

1. The definition proposed by the state commission, and

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<sup>3</sup> Regarding Alltel's Florence, Mississippi exchange, although the majority of this exchange is located outside RSA 9, a small portion does cross into that RSA. Centennial has been granted ETC designation only for the Alltel wire centers that are located entirely within RSA 9, which excludes the Florence exchange.

2. The state commission's ruling or official statement setting forth the reasons for the proposed definition.

47 C.F.R. §54.207(c)(1). These two elements are discussed in more detail below.

The MPSC proposes to classify each Franklin individual wire center physically located within the geographic area also covered by RSAs 8 and 9 as the service area for Centennial for which Centennial is to be designated as an additional ETC also served by Franklin.<sup>4</sup> As a rural telephone company, Franklin's service area is presently the same as its study area for purposes of determining federal universal service obligations and support mechanisms. Redefining Franklin's service area on *vis-à-vis* Centennial's ETC allows the MPSC to grant Centennial ETC status only for those Franklin wire centers located within RSAs 8 and 9.

Section 54.207(c)(1) of the Commission's rules also requires the MPSC to make an official statement setting forth the reasons for the proposed definition, including an analysis that takes into account the Federal-State Joint Board recommendations with respect to the definition of a service area served by a rural telephone company. The MPSC recommends redefining Centennial's service area as being those wire centers in Franklin's Study Area in the manner described herein because Centennial is not licensed to serve the entirety of Franklin's area, and, pursuant to Section 214(e) of the Act, consumers in the portions of Franklin's area within RSAs 8 and 9 will not reap the benefits of the enhanced competition that providing high-cost support to Centennial will bring unless Franklin's area is redefined as proposed.

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<sup>4</sup> The CLLI codes for the Franklin wire centers located within the areas of RSAs 8 and 9 served by Centennial are: BRLWMSXARSO/Barlow; CRSBMSXARSO/Crosby; EDTNMSXARSO/Eddiceton; HRVLMSXARSO/Hermanville; MDVLMSXADSO/Meadville; and NWHBMSXADSO/New Hebron.

Franklin's current Mississippi Study Area is comprised of wire centers located in the southwestern, southeastern, and eastern areas of the state. The MPSC recommends redefining Centennial's service area for purposes of Centennial's ETC designation in an effort to clearly list the precise geographic areas served by Franklin for which Centennial will be granted ETC status. This approach would allow Centennial to be granted ETC status for the Franklin wire centers within RSAs 8 and 9. The MPSC notes that in granting other petitions to redefine service areas to the wire center level, the Commission has found that such redefinitions "encourage efficient entry . . . [and] . . . facilitate local competition."<sup>5</sup>

In designating competitive ETCs, the Joint Board has recommended that federal and state regulators consider whether the ETC applicant may attempt to solicit and serve only in the high density, low cost areas of a rural telephone company's study area ("cream skimming"). In the *Highland Cellular* proceeding, the Commission granted ETC designation for most of the requested areas but denied designation for the study area of certain rural carriers where Highland Cellular's licensed area did not fully cover the study areas and the areas in which it was authorized to serve happened to be the lowest-cost areas to serve.<sup>6</sup> Such circumstances are not present in Centennial's case, however.

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<sup>5</sup> Washington UTC Redesignation Order at ¶ 8 (citing *Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, 181, at para. 176 (1996)); see also *In Re Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 1563 (FCC rel. Dec. 31, 2003) (hereinafter "Virginia Cellular"); *In Re Application of Virginia Cellular LLC for designation as an eligible telecommunications provider under 47 U.S.C. § 214(e)(2)*, Final Order, 2004 Va. PUC LEXIS 295 (Va. SCC June 23, 2004) (granting the Commission's petition for agreement to redefine Shentel's and MGW's service areas); *In Re Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of CenturyTel of Eagle, Inc.*, Pursuant to 47 C.F.R. § 54.207(c) (filed Aug. 1, 2002) (granted, pursuant to 47 C.F.R. § 54.207(c)(3), after the Commission declined to initiate a proceeding within 90 days after filing).

<sup>6</sup> *In Re Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 6422 (FCC rel. Apr. 12, 2004) (hereinafter "Highland Cellular").

Mississippi is an overwhelmingly rural state. According to the 2000 Federal Census, only three Mississippi cities are classified as non-rural in this context, having populations of 50,000 or more residents.<sup>7</sup> As a practical reality, there are no high density, low cost areas by traditional definition outside of these three population centers, none of which are located within RSAs 8 and 9. Moreover, Centennial has committed to serving the entirety of its Commission-licensed service area as an ETC (except for one Alltel exchange, which has only a very small portion that intersects with Centennial's service area, and for which Centennial is not seeking ETC designation).<sup>8</sup> Nor do the MPSC's orders grant ETC status for any partial wire centers. Thus, there is no real potential for Centennial to serve only low-cost areas. Finally, the MPSC has imposed, as part of its public interest analysis, certain reporting requirements to ensure that Centennial will advertise and make service available throughout the entirety of its licensed service area.<sup>9</sup> These safeguards, coupled with the fact that the possibility for cream skimming is almost non-existent, demonstrate that the Commission need not be concerned that the proposed redefinition of Franklin's Study Area for purposes of Centennial's ETC designation will result in Centennial cream skimming the low-cost areas.

The Joint Board also recommended considering the special status of a rural telephone company conferred by the Act. For example, as a rural ILEC, Franklin is entitled certain statutory exemptions, such as being exempt from interconnection, unbundling and resale requirements normally applicable to ILECs. The MPSC notes, however, that these exemptions will remain in effect even if Centennial's service area is

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<sup>7</sup> These cities are Biloxi, Gulfport and Jackson, with populations of 50,644, 71,127 and 184,256, respectively.

<sup>8</sup> See *supra*, note 3.

<sup>9</sup> August 10th Order at 11.



redefined as proposed herein. Nor would the redefinition of Franklin's service reduce the careful consideration, including a determination of public interest, that the MPSC must give to any competitive provider application for ETC status in Franklin's Study Area and over which the MPSC has specifically retained jurisdiction for purposes of its decisions to designate Centennial as an additional ETC within the affected rural ILECs service areas. The MPSC's careful consideration of the *Highland Cellular* and the *Virginia Cellular* factors in ultimately determining that granting Centennial ETC status in the areas served by Franklin and other rural ILECs in Mississippi, will be applied to future ETC applicants, regardless of the outcome of this redefinition petition.<sup>10</sup>

Finally, the Joint Board recommended that the Commission and the states consider whether rural ILECs would face an undue administrative burden as a result of the proposed redefinition. Franklin will suffer no such burden as a result of this redefinition. The MPSC's proposal to redefine the Franklin service area at the wire center level is made solely for Centennial's ETC designation purposes. Defining service areas in this manner will in no way affect the way Franklin calculates its costs but is only to allow Centennial to serve only those areas for which it is licensed. Franklin may continue to calculate costs and submit data for purposes of collecting high-cost support in the same manner as it does now.

In summary, the concerns raised by the Joint Board do not preclude the redefinition of Franklin's service area as proposed herein.

### **Conclusion**

This petition complies with 47 C.F.R. § 54.207(c)(1) by providing the MPSC's proposed definition of Franklin's service area for purposes of Centennial's ETC

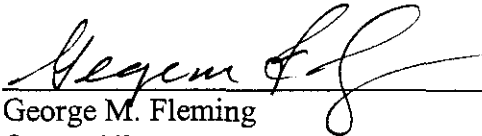
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<sup>10</sup> *Id.*; see also *Virginia Cellular*; *Highland Cellular*.

designation, providing the rationale therefore and considering the Joint Board's recommendations. The MPSC requests that the Commission act expeditiously to approve the redefinition of the service area of Franklin in a manner consistent with the proposed herein.

Respectfully submitted this the 18<sup>th</sup> day of May, 2005.

MISSISSIPPI PUBLIC SERVICE COMMISSION

By:   
George M. Fleming  
Counsel For

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## CERTIFICATE OF SERVICE

I, George M. Fleming, Counsel for the Mississippi Public Service Commission, hereby certify that a copy of the foregoing Petition of the Mississippi Public Service Commission for Concurrence to Redefine the Service Area of Franklin Telephone Company, Inc. has been delivered via United States Mail, postage prepaid, to the following:

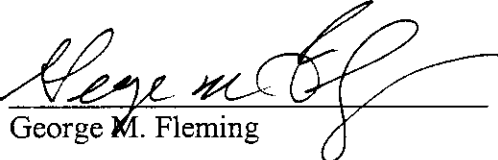
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George M. Fleming

## **EXHIBIT A**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE STATE OF MISSISSIPPI**

**2003-UA-0234**

**IN RE: APPLICATION OF CENTENNIAL  
CELLULAR TRI-STATE OPER-  
ATING PARTNERSHIP and  
CENTENNIAL CLAIBORNE CELL-  
ULAR CORP. FOR DESIGNATION  
AS AN ELIGIBLE TELECOMMUNI-  
CATIONS CARRIER PURSUANT  
TO SECTION 214(e)(6) OF THE  
TELECOMMUNICATIONS ACT of  
1937**

**ORDER**

Upon rehearing, there came on for consideration this day the application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corporation ("Centennial") for Designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214 (e)(6) of the Telecommunications Act of 1934, as amended ("the Act"). The Commission, being sufficiently advised and with the concurrence of the Public Utilities Staff, finds as follows:

- (1) The Commission has jurisdiction over the subject matter and the parties to enter this Order and entry hereof is in the public interest.
- (2) On April 16, 2003, Centennial filed with this Commission its application for designation as an ETC for purposes of receiving Universal Service Funds ("USF") pursuant to Section 214 (e) of the Act and Federal Communications Commission ("FCC") Rules 47 C.F.R. §§ 54.201 through 54.207 in its FCC-licensed service areas in the State of Mississippi.
- (3) Due and proper notice of the Application was given to all interested persons as required by law and the Commission's Public Utilities Rules of Practice and Procedure.

(4) BellSouth Telecommunications, Inc., (“BellSouth”) and the Mississippi Rural Independent Telephone Companies (“Rural Independents”) intervened and became parties of record in this matter.

(5) Centennial provides wireless telecommunications service in designated areas of the State of Mississippi. These areas are comprised of fourteen counties divided into two areas, Rural Study Area 8 (“RSA8”) and Rural Study Area 9 (“RSA9”). These areas are served by rural providers Alltel of Mississippi, Inc., (“Alltel”) Franklin Telephone Company, Inc., (“Franklin”) and Georgetown Telephone Company, Inc. (“Georgetown”).

(6) Centennial sought and was granted bifurcation of proceedings for consideration separately of the Application in those areas served by BellSouth from those served by the Rural Independents. The ETC designation in BellSouth service areas was granted on September 24, 2003.

(7) An Order granting ETC status to Centennial in the rural portions of its service area was granted April 7, 2004. An Amended Order for clarification was issued April 22, 2004. The Rural Independents filed a Motion for Rehearing on April 30, 2004. This motion was granted on May 20, 2004.

(8) A hearing was had on the matter on June 30, 2004, before the full Commission.

#### PURPOSES OF THE ACT

(9) The Telecommunications Act of 1934 has as its purpose the goal of making available to all Americans rapid and efficient radio and wire communication service.<sup>1</sup> Rural consumers are a specifically designated concern of the Act, in recognition of the reality that providing service in low population density areas is an expensive proposition to a provider with very little, if any,

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<sup>1</sup> 47 U.S.C. § 151.

profit margin. Congress explicitly stated rural, insular and high cost areas should have access to reasonably comparable services as those available in more profitable urban areas.<sup>2</sup>

(10) The 1996 amendments to the Act were intended to fully open the telecommunications market to competition. Specifically, “to provide for a pro-competitive, de-regulatory national policy framework designated to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition . . . .”<sup>3</sup> The Universal Service Fund was created as an explicit subsidy to assist in defraying the costs associated with achieving the Act’s goals.<sup>4</sup>

(11) The focus of the Act is on consumers, not companies. Rural telephone companies have not been granted protection from competitive forces, but Congress did recognize the unique position of rural carriers and consumers. In particular, Congress was concerned about the continuation of adequate service to rural consumers in the event a rural incumbent elected to relinquish its ETC designation.<sup>5</sup> To that end, upon consideration of an ETC petition in rural areas, it is not sufficient that a telecommunications carrier is able to provide the necessary services. The Commission must also be persuaded that such a designation serves the public interest.<sup>6</sup>

(12) The importance of the public interest analysis has drawn much attention lately as part of a larger debate. The exponential growth of the USF in recent years has drawn the future sustainability of the Fund into question. The FCC has received recommendations from the Federal-State Joint Board on Universal Service and intends to make certain changes in the

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<sup>2</sup> 47 U.S.C. § 254(1)(b).

<sup>3</sup> *Joint Explanatory Statement of the Committee of the Conference*, H.R. Conf. Rep. No. 458, 104<sup>th</sup> Cong., 2d Sess. At 131.

<sup>4</sup> 47 U.S.C. § 254(e).

<sup>5</sup> *FCC Memorandum Opinion and Order in Re: Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45 (¶ 18)(December 26, 2000).

<sup>6</sup> 47 U.S.C. § 214(e)(2).

applicable rules. In the interim, recent decisions of the FCC on ETC designation petitions have encouraged state Commissions to conduct thorough, fact-intensive reviews of ETC petitions for rural areas.<sup>7</sup>

(13) This Commission has never before defined the factors which constitute the public interest analysis in this context. We take this opportunity to announce the following policy considerations to be applied to applications for ETC designations in rural areas:

- (1) Benefits of increased competition.
- (2) Impact of designation upon the Universal Service Fund.
- (3) Commitment to quality of service by the competitive provider and ability to provide the supported services in a timely manner.
- (4) Unique advantages and disadvantages of a competitor's service offering.
- (5) Cream skimming analysis.

(14) In order to effectuate the above policy considerations, we also announce certain requirements to which a carrier must commit before ETC status in rural areas will be granted. These requirements are discussed in the relevant sections to follow.

(15) The public interest analysis and requirements we adopt with this Order shall be applicable to all future applications for designation as an eligible telecommunications carrier by any competitive provider.

#### 1. Benefits of increased competition

(16) The public benefits of competition are well-known. A competitive marketplace encourages innovation in products and services, produces incentives for efficiencies and increases the service options available to consumers. Competition alone is not sufficient to justify the granting of an ETC designation. It is, however, the articulated purpose of the 1996 amendments to the Act and is thus an important consideration. It is particularly important in the rural setting where the cost of deploying new services is high. Cellular service, while ubiquitous

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<sup>7</sup> FCC Memorandum Opinion and Order in Re: *Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45 (¶ 28)(December 31, 2003).



in urban areas, is less competitive in rural ones and the distance between cellular towers makes service less predictable. Providing funds for cellular services to build and maintain the necessary infrastructure to serve rural areas meets the dual goals of the Act in providing rural Americans with comparable services and encouraging a pro-competitive environment.

(17) Centennial currently provides cellular service in RSAs 8 and 9. With ETC designation, Centennial would be able to expand its coverage area, increase the quality of service available to its customers and make available to rural consumers comparable technology as is available in urban locations. Designation of Centennial as an ETC under this consideration is therefore in the public interest.

## 2. Impact of designation on the Universal Service Fund

(18) In recent months, a great deal of concern has been expressed regarding the sustainability of the USF due to the tremendous increase in the number of ETC designations granted.<sup>8</sup> A number of suggestions have been made which, if adopted by the FCC, would directly impact future ETC designations by this Commission.

(19) The importance of sustaining the USF cannot be overstated. At present, however, there is no meaningful measurement of any given designation upon the USF. While one may reach a mathematical calculation which states what percentage of the USF as a whole a company receives, as a practical matter in state proceedings, that number will almost always be insignificantly small. The concern is not how much of the Fund an individual provider would receive but the effect of many companies upon the Fund.<sup>9</sup> While each provider only receives a small amount in comparison to the total Fund, the aggregate directly affects future Fund

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<sup>8</sup> See, e.g., *In re Federal-State Joint Board on Universal Service Recommended Decision*, CC Docket No. 96-45 (February 27, 2004).

<sup>9</sup> *FCC Memorandum Opinion and Order in Re: Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, ¶ 31.

viability. Thus, a statement that Centennial would receive only a tiny portion of the USF budget is meaningless and, to a degree, misleading as it does not address the actual perils facing the Fund.

(20) We acknowledge that granting an ETC designation to any company will impact the USF. In this instance, however, that alone is insufficient to deny Centennial's ETC petition. At present, no cellular companies have been granted a rural ETC designation in the State of Mississippi which creates a disadvantage to the rural residents of this state and frustrates the dual purposes of the Act. Designation of Centennial as an ETC under this consideration is therefore in the public interest. As the FCC offers guidance in the future on this matter, we will accordingly amend the manner in which we review this particular concern.

3. Commitment to quality of service by the competitive provider and the ability to provide the supported services in a timely fashion

(21) The concern of the Commission under this consideration is to ensure rural consumers receive high quality, reliable service, particularly in the event a rural incumbent relinquishes its own ETC designation. In addition, the ability to provide quality service furthers the goal of making available to rural consumers technology comparable to that of urban locations.

(22) Before a provider may be granted ETC status, it must establish it is able to provide certain services:

- a. Voice grade access to the public switched network;
- b. Access to free-of-charge "local usage" defined as an amount of minutes of use of exchange service;
- c. Dual-tone multi-frequency signaling or its functional equivalent;
- d. Single-party service or its functional equivalent;
- e. Access to emergency services;
- f. Access to operator services;
- g. Access to directory assistance;
- h. Access to interexchange services;

- i. Toll limitations services for qualifying low-income customers.<sup>10</sup>

(23) In addition to these basic service requirements, the Commission prescribes the following requirements in order to assure quality, quantity and timeliness of service:

- a. Mandatory compliance with the CTIA Consumer Code for Wireless Service;
- b. Submission to the Commission the number of consumer complaints per 1000 handsets on a quarterly basis;
- c. Designation of a representative for addressing customer service or quality of service complaints received by the Commission. The company representative should have the authority to resolve all complaint issues.
- d. In providing supported services, the competitive provider shall provide immediate service to prospective customers within its existing network. When the prospective customer lies within the carrier's service area but outside of its existing network coverage, the ETC shall take the following steps in descending order:
  1. Determine whether the requesting customer's equipment can be modified or replaced to provide service;
  2. Determine whether a roof-mounted antenna or other equipment can be deployed to provide service;
  3. Determine whether adjustments can be made at the nearest cell tower to provide service;
  4. Determine whether a cell-extender or repeater can be employed to provide service;
  5. Determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
  6. Determine whether it can offer resold services from another carrier's facilities to provide service;
  7. Determine whether an additional cell site can be constructed to provide service and evaluate the costs and benefits of using high-cost support to serve the number of customers requesting service through such additional cell sites. If there is no possibility of providing service short of construction of a new cell site, the ETC will report this fact to the Commission along with the projected costs of construction and the ETC's determination as to whether the request for service is reasonable and whether high-cost funds should be expended on the request.
  8. Steps 1-6 of this procedure must be completed by the provider within thirty days of receiving a request for service. Should the provider find it necessary to proceed to Step 7, the provider will promptly notify the Commission and complete the analysis within an additional fifteen days.

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<sup>10</sup> 47 U.S.C. § 214(e) and C.F.R. § 54.201.

(24) Financial stability of a company is also an inherent requirement of determining that company's ability to provide service. In addition to the disclosures submitted with an initial filing of an application, a competitive ETC shall file annual reports with the Commission as required under Rule 3(F) of the Commission Rules and Regulations Governing Public Utility Service.

(25) All of these requirements shall be mandatory for all rural ETCs in the State of Mississippi. Failure to agree to them will result in the denial of an ETC designation petition regardless of any other considerations. Failure to abide by them after designation will result in an immediate inquiry into whether or not a designation should be suspended or withdrawn.

(26) Centennial has previously established its financial health in the initial review of its petition. A number of the non-financial requirements have already been assumed voluntarily by Centennial, such as compliance with the CTIA Consumer Code of Wireless Service. Centennial has also agreed to abide by some of the reporting obligations of this section. However, Centennial has not agreed to make all of these requirements binding prerequisites to the grant of their application. Such agreement shall be obligatory before the remainder of this Order may be effectuated but otherwise we find designation of Centennial as an ETC under this consideration is in the public interest.

#### 4. Unique advantages or disadvantages of a competitor's service offering

(27) Wireline and wireless services each have their own advantages and disadvantages. With wireless service the greatest and most obvious advantage is mobility. "The mobility of telecommunications assists customers in rural areas who often must drive significant distances to

places of employment, stores, schools, and other critical community locations.”<sup>11</sup> It is also invaluable in summoning emergency services in rural areas where public access telephones are few and far between. Wireless networks also tend to have broader local calling areas than wireline providers which assists in “leveling the field” between rural and urban areas and provides a direct benefit to the individual consumer.

(28) The disadvantages of wireless include the common requirement by providers that a customer agree to a service contract, often for multiple years. The rural ILECs have no such binding service requirements.

(29) This Commission also has no authority to regulate the rates of wireless providers.<sup>12</sup> The incumbent carriers’ rates are regulated and these companies must seek approval by this Commission before amending them. A wireless provider may alter its rates with no explanation or regulatory oversight. While this is certainly a competitive advantage in the marketplace, it raises for this Commission the concern of predatory pricing behavior. This will be of even greater concern in the future if the FCC adopts the recommendation to limit support to a single, primary line per household.<sup>13</sup> In the far more fiercely competitive atmosphere for Universal Service dollars such a decision would create, predatory pricing is not an insignificant possibility.

(30) At the present time, the advantages of deploying wireless service on the broadest possible scale outweigh the disadvantages, as well as furthering the goals of the Act. However, in order to assure that the competitive goals of the Act are met but not abused, we shall require wireless ETCs to make all service offerings available on their respective internet web sites, make available to the Commission all documentation to support the retail rates offered in areas in

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<sup>11</sup> *Virginia Cellular Memorandum Opinion and Order* (¶ 29).

<sup>12</sup> 47 U.S.C. § 332(c)(3).

<sup>13</sup> *In re Federal-State Joint Board on Universal Service Recommended Decision*, CC Docket No. 96-45, ¶ 3.

which the carrier receives federal universal service funds, and to file and update Lifeline/Linkup tariffs for Commission approval.

(31) Centennial must agree to these requirements before the remainder of this Order will be effectuated but otherwise we find designation of Centennial as an ETC under this consideration is in the public interest.

5. Cream skimming analysis

(32) Another concern of designating competitive ETCs is that a competitor shall solicit and serve only in the high density, low cost areas of a rural telephone company's study area.<sup>14</sup>

Mississippi is an overwhelmingly rural state. According to the 2000 Federal Census, only three Mississippi cities are classified as non-rural in this context, having populations of 50,000 or more residents.<sup>15</sup> As a practical reality, there are no high density, low cost areas by traditional definition outside of these three population centers, none of which are located within RSAs 8 and 9 and thus there is no cream to skim.

(33) However, there are areas of higher population concentrations than others even within an officially rural area. We must closely review applications which seek to serve only in those RSAs of *higher* population where a rural telephone company maintains several wire centers in different RSAs. We must also be concerned about competitive wireless providers who only advertise and make available its services in the most heavily populated portions of a rural incumbent's study area despite licensure to serve an entire study area.

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<sup>14</sup> *Virginia Cellular Memorandum Opinion and Order* (¶ 32).

<sup>15</sup> Biloxi-50,644  
Gulfport-71,127  
Jackson-184,256.

(34) The FCC has made our analysis infinitely more manageable by their method of issuing cellular service licenses with clearly defined geographical boundaries. These boundaries are static and apply to all providers licensed in a particular market or rural area.

(35) All competitive ETCs shall be required to advertise and make service available throughout the entirety of their FCC-licensed area. Failure to do so is more often than not an after-the-fact discovery rather than a problem which may be avoided in advance. However, in order to avoid noncompliance as much as is feasible, we shall also require the following reporting obligations of rural competitive ETCs:

1. Submission of quarterly reports detailing the number of service requests in the licensed area which go unfulfilled and the basis for the refusal of service.
2. Submission of an initial build-out plan for areas where facilities do not yet exist upon designation as an eligible carrier.
3. Submission of maps showing existing facilities, coverage area, and planned sites of new facilities upon designation as an eligible carrier and updated annually.
4. Submission of a yearly Universal Service Plan on June 1<sup>st</sup> of each year for the Commission's use in complying with the October 1<sup>st</sup> certification deadline set forth by the FCC. The plan shall include the amount of universal service funds the company expects to receive the following year and the company's proposed use of those funds.
5. The company shall file quarterly reports of the amount of universal funds received for the quarter and updates of the progress of the projects previously approved by the Commission.

(36) Once again, Centennial has previously agreed to assume some of these reporting obligations but not all. Agreement with all requirements is necessary before the remainder of this Order will become effective.

(37) Upon consideration of all available facts and policy considerations, we find designation of Centennial as an ETC in Mississippi RSAs 8 and 9 consistent with the public interest.

(38) The study area of Georgetown Telephone Company is wholly encompassed within RSA 9. Alltel of Mississippi, Inc., a disaggregated carrier, serves areas both within and without RSA

9, including a wire center located in Florence, Mississippi. Although the bulk of Alltel's Florence wire center is located outside of RSA 9, a small portion does cross into that study area. Consistent with FCC precedent, Centennial Cellular is not granted ETC designation for the Florence wire center, only for Alltel's Bassfield and Prentiss wire centers, both of which are located entirely within RSA 9. Franklin Telephone Company serves areas in both RSA 8 and 9, as well as areas in southeast Mississippi and northeast Mississippi, areas outside the scope of Centennial's FCC licensed area. Centennial is not legally authorized to render service in the portions of Franklin's study area located outside of RSAs 8 and 9. For this reason, the study area of Franklin Telephone Company, Inc., is subject to redefinition with FCC approval pursuant to 47 C.F.R. § 54.207.

IT IS, THEREFORE, ORDERED:

- (1) The Application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corporation for designation as an eligible telecommunications carrier in the State of Mississippi in Rural Study Areas 8 and 9 for which it holds valid licensure issued by the Federal Communications Commission is GRANTED. Centennial shall provide service either through its own facilities or through its own facilities in combination with resale to all subscribers upon request in its designated area.
- (2) This Order is conditioned upon Centennial's formal, written acceptance of the requirements herein detailed.
- (3) This Order is conditioned upon acceptance by the Federal Communications Commission of a Petition to Redefine the Study Area of Franklin Telephone Company, Inc.
- (4) This designation is for federal universal service funds, and is based on federal rules and guidelines as they presently exist. This Commission retains continuing jurisdiction to review,

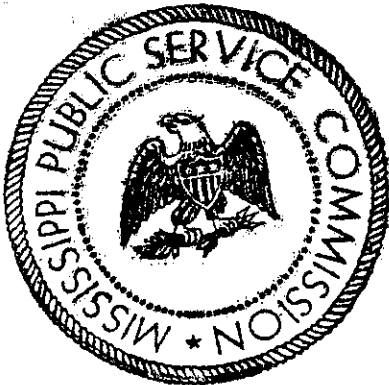


modify or revoke its designation. Additionally, should any substantive information in this docket supplied by Centennial prove inaccurate, the designation of Centennial as an ETC is subject to revocation.

(5) The entire file of the Commission and all responses to all discovery requests of the Mississippi Public Utilities Staff are specially made part of the record in this matter. All information or documents submitted to the Commission as proprietary or confidential shall remain under seal.

SO ORDERED, this the 10<sup>th</sup> day of August, 2004.

Chairman Bo Robinson voted Aye, Vice Chairman Nielsen Cochran voted Aye,  
Commissioner Michael Callahan voted Aye.



MISSISSIPPI PUBLIC SERVICE COMMISSION

Bo Robinson  
BO ROBINSON, Chairman

Nielsen Cochran  
NIELSEN COCHRAN, Vice-Chairman

Michael Callahan  
MICHAEL CALLAHAN, Commissioner

ATTEST: A TRUE COPY

Brian U. Ray  
BRIAN U. RAY, Executive Secretary